

**IN THE COURT OF APPEALS  
FIRST APPELLATE DISTRICT OF OHIO  
HAMILTON COUNTY, OHIO**

STATE OF OHIO,	:	APPEAL NO. C-070722
	:	TRIAL NO. 07CRB-36576
Plaintiff-Appellee,	:	
	:	<i>JUDGMENT ENTRY.</i>
vs.	:	
QIANA CLARK,	:	
	:	
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court.<sup>1</sup>

On September 18, 2007, two Cincinnati police officers were working a uniformed off-duty detail for the Over-the-Rhine Chamber of Commerce. They were in their cruiser at the traffic light at Liberty and Walnut Streets when they heard people yelling. Upon investigation, the officers found defendant-appellant Qiana Clark and another woman fighting in the middle of the street. A crowd had gathered around the women. The women continued to fight until the officers separated them. Clark was cited for disorderly conduct in that she had “recklessly caused alarm by engaging in fighting.” At trial, Clark and her boyfriend testified that the other woman had been bothering Clark for two days and that she had previously accosted Clark with a baseball bat. They also testified that the other woman had stolen a necklace and a ring from

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<sup>1</sup> See S.Ct.R.Rep.Op. 3(A), App.R. 11.1(E), and Loc.R. 12.

Clark and that Clark had been defending herself against a robbery. Clark was found guilty after a bench trial and was sentenced to pay a fine and court costs.

Clark's sole assignment of error, alleging that her conviction was based upon insufficient evidence and was against the manifest weight of the evidence, is overruled.

The weight to be given the evidence and the credibility of the witnesses are primarily for the trier of fact to determine.<sup>2</sup> After viewing the evidence in the light most favorable to the prosecution, we hold that a rational trier of fact could have found in this case that all the essential elements of the offense had been proved beyond a reasonable doubt.<sup>3</sup> Further, after reviewing the entire record, weighing the evidence, and considering the credibility of the witnesses, we hold that the trial court did not lose its way and create a manifest miscarriage of justice.<sup>4</sup> The trial court heard Clark's evidence, considered her claim that she was defending herself against a robbery, and rejected it.

Therefore, the judgment of the trial court is affirmed. Further, a certified copy of this Judgment Entry shall constitute the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

**SUNDERMANN, P.J., HENDON and WINKLER, JJ.**

RALPH WINKLER, retired, from the First Appellate District, sitting by assignment.

*To the Clerk:*

Enter upon the Journal of the Court on November 12, 2008

per order of the Court \_\_\_\_\_.  
Presiding Judge

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<sup>2</sup> See *State v. DeHass* (1967), 10 Ohio St.2d 230, 227 N.E.2d 212.

<sup>3</sup> See *State v. Jenks* (1991), 61 Ohio St.3d 259, 574 N.E.2d 492, paragraph two of the syllabus; *State v. Roberts*, 1st Dist. No. C-040547, 2005-Ohio-6391.

<sup>4</sup> See *State v. Thompson*, 78 Ohio St.3d 380, 1997-Ohio-52, 678 N.E.2d 541; *State v. Martin* (1983), 20 Ohio App.3d 172, 485 N.E.2d 717.